



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Karen Hartley-Nagle  
Brenda L. Irwin, Treasurer  
Karen Hartley-Nagle for Congress  
104 Lighthouse Road  
Wilmington, DE 19809

MAR 30 2009

RE: MUR 6066

Dear Ms. Hartley-Nagle and Ms. Irwin:

On September 12, 2008, the Federal Election Commission notified Karen Hartley-Nagle and Michael Dore, former treasurer of Karen Hartley-Nagle for Congress, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to Ms. Nagle and to the Committee at that time.

Upon further review of the allegations contained in the complaint and information supplied by the Committee, the Commission, on March 10, 2009, found there is no reason to believe that Ms. Nagle violated the Act in connection with the allegations in this matter and no reason to believe that Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(b). On the same date, after considering the circumstances of the matter, the Commission decided to dismiss the allegation that the Committee violated 2 U.S.C. § 434(a) and closed its file in this matter.

Based on the information before the Commission, it appears that the Committee failed to timely disclose its 2008 Pre-Primary Report in violation of 2 U.S.C. § 434(a). The Commission cautions the Committee to take steps to ensure that its conduct is in compliance with the Act and Commission regulations.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Karen Hartley-Nagle for Congress  
and Brenda L. Irwin,  
in her official capacity as treasurer  
Karen Hartley-Nagle

MUR: 6066

### I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Jerry Northington. *See* 2 U.S.C. § 437g(a)(1).

### II. FACTUAL AND LEGAL ANALYSIS

#### A. Background

Complainant alleges that Karen Hartley-Nagle and Karen Hartley-Nagle for Congress ("the Hartley-Nagle Committee") failed to file the 2008 Pre-Primary report and disclose certain receipts and disbursements.

#### B. Allegation that the Karen Hartley-Nagle Campaign Failed to File the 2008 Pre-Primary Report

All campaigns that have reporting obligations must file periodic reports on financial activity. In an election year, authorized committees of House and Senate candidates must file pre-election reports before any election in which the candidate runs. 2 U.S.C. § 434(a)(2)(A)(i). For candidates running in the 2008 Delaware primary, the pre-primary report, covering the period July 1, 2008 through August 20, 2008, was due on August 28, 2008. *See* 2008 Congressional Pre-Election Reporting Dates, [http://www.fec.gov/info/charts\\_primary\\_dates.shtml#anchor2](http://www.fec.gov/info/charts_primary_dates.shtml#anchor2) (last visited Jan. 5, 2009).

Complainant alleges, and the facts support, that Karen Hartley-Nagle and the Hartley-Nagle Committee failed to timely file a required disclosure report. RAD sent the committee a

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non-filer notice, dated August 29, 2008, and the committee filed its report on September 5, 2008, 8 days after it was due. The report disclosed \$4,175 in receipts and \$3,774.56 in disbursements. In its response to the complaint, the committee's treasurer explained that the delay in filing was caused by a virus attack on their computer. RAD telephone logs show that the Committee advised RAD of the computer virus problem on September 4, 2008.

Though the Hartley-Nagle Committee filed its 2008 Pre-Primary Report late, given the circumstances surrounding the delay in filing the report, the low level of financial activity at issue, and in furtherance of the Commission's priorities and resources relative to other matters pending on the Enforcement docket, the Commission is exercising its prosecutorial discretion to dismiss with caution the allegation that Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(a). *See Heckler v. Chaney*, 470 U.S. 821 (1985).

**C. Allegation that the Karen Hartley-Nagle Campaign Failed to Disclose Certain Receipts and Disbursements**

Committee treasurers must file complete and accurate reports of receipts and disbursements. 2 U.S.C. § 434(b). Complainant alleges that Ms. Hartley-Nagle publicly stated raising over \$100,000, which the Hartley-Nagle Committee had not disclosed. Complainant also alleges that the Hartley-Nagle campaign failed to disclose disbursements in connection with purchasing lawn signs, opening a campaign office, maintaining a campaign website, hiring a campaign consultant, and other campaign activity.

In its response to the complaint, the Hartley-Nagle Committee asserts that its latest disclosure report accurately reflects its fundraising activities and expenses paid to date for campaign activities. Specifically, the committee denies that Ms. Hartley-Nagle stated that she raised over \$100,000 in campaign donations or that her campaign raised that amount.

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Complainant did not provide any evidence and we could not find any publicly available information to support the assertion that the campaign raised over \$100,000. Further, the committee asserts that invoices for office space had not yet been submitted, expenditures for signs were disclosed in its last filing, and maintenance to the website was being done on a volunteer basis. The committee further asserts that its payments for consulting services would be disclosed in its October 15, 2008, report.

The Hartley-Nagle Committee's last three disclosure reports, the 2008 Pre-Primary, Pre-General, and October Quarterly Reports, reflect disbursements for signs, advertisements, and other campaign expenses. The committee's 2008 October Quarterly Report reflects a \$2,500 disbursement to a campaign consultant.

Based on the Hartley-Nagle Committee's response to the allegations and information contained in its disclosure reports, it appears that the committee properly disclosed its receipts and disbursements. Therefore, there is no reason to believe Karen Hartley-Nagle for Congress and Brenda L. Irwin, in her official capacity as treasurer, violated 2 U.S.C. § 434(b) in connection with these allegations.

#### **D. Allegations as to Karen Hartley-Nagle**

Complainant did not articulate any factual or legal basis for finding the candidate personally liable for any of the alleged reporting violations. Therefore, there is no reason to believe that Karen Hartley-Nagle violated the Act in connection with the allegations in this matter.

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